

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SONNY THOMAS : CIVIL ACTION
: :
v. : :
: :
JOHN IATAROLA, et al. : No. 05-03850-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

November 6, 2006

Plaintiff was arrested at the scene of a murder which he had just committed. He was later convicted and sentenced to life imprisonment. In this action, he asserts that the defendants violated his constitutional rights by using excessive force in the course of his arrest, and were motivated in part by a desire to punish. Defendants have filed a motion for summary judgment.

It is apparent from the record that, if the testimony of the defendants and their witnesses is credited by the jury, defendants will win. On the other hand, if, by chance, the jury credits the testimony of the plaintiff, plaintiff would prevail. There is, in short, a sharp conflict between plaintiff's version of the events and the version espoused by the defendants. But this kind of dispute cannot be resolved on summary judgment.

Defendants argue, with considerable force, that plaintiff's testimony is not credible, and would be rejected by any rational jury. But issues of credibility cannot be resolved

on summary judgment. I cannot rule, as a matter of law, that plaintiff's testimony is untrue. The defense motion for summary judgment will therefore be denied.

An Order follows.

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ORDER

AND NOW, this 6th day of November 2006, upon
consideration of defendants' Motion for Summary Judgment, IT IS
ORDERED:

That the motion is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.